



Pacific Fishery Management Council

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Donald K. Hansen, Chairman Donald O. McIsaac, Executive Director

July 29, 2008

Mr. Paul Michel, Superintendent
Monterey Bay National Marine Sanctuary
299 Foam Street
Monterey, California 93940

Dear Mr. Michel:

The Pacific Fishery Management Council (Council) appreciates the opportunity to review and comment on the Monterey Bay National Marine Sanctuary's (MBNMS or Sanctuary) process for moving forward with consideration of additional marine protected areas (MPAs) in Federal waters of the Sanctuary. The Pacific Council tasked me with providing this response, which is based on the results of the April and June 2008 Council meetings. I, and the Council would like to thank you and your staff for your participation in these two Council meetings. Your testimony and discussions with the Council and its advisory bodies were especially valuable during these early coordination efforts.

It is unfortunate that the Council and the Sanctuary were unable to begin a dialogue on the need criteria for additional protective measures as envisioned and prior to the Sanctuary's February determination on the matter. Your February 15, 2008 letter to the Sanctuary Advisory Council (SAC), in which you stated that the "MBNMS has concluded there is a need for MPAs in Federal waters of the Sanctuary" raised several concerns from the Council and the public because this determination preceded both the Council's opportunity to comment on the issue as per your July 26, 2007 communiqué, the supporting analysis of possible need criteria and a thorough analysis of any specific MPAs alternatives. However, the Council was encouraged by your verbal testimony at the April Council meeting during which you characterized the Sanctuary determination as a general decision to consider MPAs a management tool, and with regard to specific MPA proposals, to evaluate existing and proposed management measures and MPAs within the Sanctuary in coordination the Council to ascertain if any modifications are necessary to meet the Sanctuary's goals and objectives.

The Council is supportive of a collaborative review of the need for additional MPAs within the Sanctuary and will assign a Council staff member as a liaison with the Sanctuary to ensure the best use of Council's transparent public process and extensive scientific and fishery expertise in the future evaluation of MPAs within the Sanctuary. The Council anticipates potential benefits to fishery management through increased collaboration because the Sanctuary, under the authority of the National Marine Sanctuaries Act (NMSA), can comment on laws and regulate non-fishing activities that are separate from the Council process but have benefits to fishery resources under Council jurisdiction.

The Council maintains its position that the Magnuson-Stevens Fishery Conservation and Management Act and the Council process represent the appropriate authority and forum for developing fishing regulations within and outside of National Marine Sanctuaries and is supportive of collaboration efforts early in the decision process for MPAs. However, it should be noted that Council support for a collaborative evaluation of MPAs does not imply Council support for the creation of additional MPAs. Any determination on the need for additional MPAs should only be made following a comprehensive analysis of a sufficiently wide range of alternatives.

DETERMINATION OF THE NEED FOR ADDITIONAL MPAS AND EVALUATION CRITERIA

Your April 15, 2008 letter to the SAC and Sanctuary staff testimony at the June Council meeting conveyed the Sanctuary's management objectives for MPAs as follows:

- 1) There is a need for areas where the natural ecosystem components are maintained and/or restored;*
- 2) there is a need for research areas to differentiate between natural variation versus human impacts to ecological processes and components; and*
- 3) there is a need to preserve some unique and rare areas in their natural state for the benefit of future generations."*

These management objectives provide broad overarching principles under which initial proposals could be identified, but they lack specificity and a scientific basis for determining whether additional MPAs are necessary, or if necessary, the location and spatial extent of MPAs needed to meet the stated objectives. If taken literally, every geographic segment of the MBNMS would meet the criteria and the entire MBNSM could become an MPA.

The Council again was encouraged by Sanctuary staff testimony at the June Council meeting that the development of specific evaluation criteria for determining the purpose, location, size, and regulatory protections for proposed MPAs are still needed and would be developed cooperatively between the Council, the Sanctuary, and their respective advisory groups before MPA sites are proposed. This is a critical step in that, absent the adoption of *a priori* criteria for individual MPA sites, any and all proposals would pass the general "management tool" criteria threshold.

As an initial step in the development of MPA evaluation criteria, I encourage you to review a white paper completed by the Council's Scientific and Statistical Committee (SSC) entitled "*Marine Reserves: Objectives, Rationales, Fishery Management Implications and Regulatory Requirements.*" There are several commonalities between the Sanctuary's management objectives for considering MPAs and the rationales and objectives put forward in the SSC's white paper. Additionally, the white paper provides a framework for the development and analysis of management alternatives, including *status quo*. This document was completed in 2004 and is readily available on the Council's web page. The Council, its staff, and its SSC are willing to assist in the development and review of the evaluation process and the resulting analysis of alternatives. While not all evaluation criteria are likely to be amenable to rigorous scientific evaluation, those brought before the SSC for review should be.

To further assist in the development of evaluation criteria for existing and proposed MPAs, the State of California has offered to provide the criteria developed in part by the California Department of Fish and Game (CDFG) under an ongoing initiative to establish a network of state

MPAs under the California Marine Life Protection Act Initiative. Council and CDFG staff are currently coordinating to consolidate the regional California criteria for potential application to Federal MPA considerations.

ADVISORY GROUPS AND INDEPENDENT SCIENTIFIC REVIEW

The Council understands that the Sanctuary is currently deliberating the membership and roles of the advisory groups that are intended to provide recommendations and sound scientific advice to the Sanctuary on MPA matters. As the Sanctuary begins the process of forming these working groups and advisory bodies, the Council offers the following recommendations.

The Council relies on its SSC for an independent review of the science in support of Council recommendations and the Council encourages the Sanctuary develop a similar process. Science and policy should be kept separate and MPA proposal development and review should be done by separate entities. To facilitate this distinction, the Council recommends it be clear that the role of members of the Sanctuary's MPA Working Group is as stakeholders or institutional representatives, and the role of members of the Sanctuary's science advisory panel is as independent scientists that do not advocate policy positions of stakeholder groups.

The Sanctuary's science advisory panel should be made up of experts from many disciplines including biology, ecology, oceanography, and population dynamics to ensure adequate and independent scientific review of MPA evaluation criteria and proposals. An important component to the evaluation of MPAs is the analysis of potential impacts to fisherman and fishing communities. It is critical that the science advisory panel also include experts from a variety of fields within the social sciences. To maintain consistency and in recognition of the inter-related nature of social and non-social analyses, a separate socioeconomics panel is not desirable.

The Council would like to make its SSC and SSC Ecosystem-Based Management Subcommittee available for scientific input to the process, but would like to clarify that should any SSC members also serve as individual members of the Sanctuary's science advisory group, they would do so as independent scientist, not as representatives of the SSC or the Council. Further, the Council recommends that scientific matters reviewed by the Sanctuary's science advisory panel that are of particular interest to the Council, such as those associated with fishery impacts, socioeconomics, fish stock status, or fish habitat, also be brought before the Council and its advisory bodies, particularly the SSC. The Council must sanction any SSC statements for such statements to represent a Council position.

ANALYTICAL AND DOCUMENTATION PROCESS

The Council and the State of California currently implement or are developing spatial fishery management and/or MPAs within and around the MBNMS including California state water MPAs, area closures to protect groundfish essential fish habitat, and Rockfish Conservation Areas designed to minimize impacts to overfished rockfish species. With the understanding that analyzing a range of alternatives is required, the Council strongly recommends that any proposed future actions be contrasted with protections afforded by current state and Federal regulations (the "no action" or status quo alternative) as a standard analytical protocol. The Council understands that the Davidson Seamount is not currently a part of the MBNMS. However, given its proximity to the Sanctuary and the possibility that the expansion of the Sanctuary may

include the seamount soon, the Council recommends that the existing fishery closures implemented at the Davidson Seamount to protect essential groundfish habitat be included in the analysis of the status quo alternative.

Regarding the range of action alternatives for MPAs in Federal waters of the Sanctuary, the Council recommends that the added value to Sanctuary management goals afforded by proposed additional protections should be evaluated using the specific evaluation criteria developed at the onset of the process. The Council and its SSC recommend that at least one of the action alternatives consider the consolidation of existing spatial management measures as a potential mechanism to meet Sanctuary objectives.

The Sanctuary has identified research opportunities as one of the objectives for Sanctuary MPAs. The Council recommends that monitoring plans be developed along with each of the alternative proposed actions. This would help the Council, the Sanctuary, and the public ascertain each alternative's ability to meet Sanctuary objectives. The analysis of MPA alternatives and their associated monitoring plans should address the potential loss of existing fishery-dependent and fishery-independent sampling and surveying opportunities. The loss of these data sources, particularly those with a long time series, can have a significant effect on indices used for stock assessments. Replacement of these surveying opportunities with alternative methods should be a high priority if MPAs are implemented.

Lastly, should any MPA site involve fishery regulation to achieve adopted criteria, it will be useful towards the end of the analytical process to identify which fishery regulations can be adopted under MSA authority and which can only be adopted under NMSA authority. Current NOAA policy is for fishery regulation in Sanctuary waters to be accomplished under MSA if possible. Adding this determination into the process will facilitate implementing the NOAA policy and comport with a major Council concern.

At both the April and June Council meetings, Sanctuary staff distributed a schematic flow diagram to illustrate the process and timeline for consideration of MPAs in the MBNMS. This illustration has been very useful in capturing key steps and elements. We have attached edits to the diagram that reflect our understanding of the commitment for inclusion of Council input, as well as other suggestions in this letter. Please advise as to your actual revisions of this diagram.

In closing, thank you for your continued commitment to a close working relationship with the Council process. The Council and the Council staff look forward to increased collaboration with the Sanctuary during the next steps in the process as evaluation criteria are developed, Sanctuary advisory groups are established, alternatives are developed, thorough analyses completed, and wise policy choices are made.

If you or your staff should have any questions, please contact me or Mr. Mike Burner, the lead Council Staff Officer on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "D. O. McIsaac", with a long horizontal flourish extending to the right.

D. O. McIsaac, Ph.D.
Executive Director

Enclosure

MDB:rd

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Council Members
Mr. Jim Balsiger
Mr. Jack Dunnigan
Mr. Sam Rauch
Mr. Dan Basta
Mr. William Douros
Mr. Chris Mobley
Mr. Paul Michel

Mr. Dan Howard
Ms. Maria Brown
Ms. Carol Bernthal
Ms. Eileen Cooney
Mr. Judson Feder
Dr. John Coon
Mr. Mike Burner